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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,649	01/29/2004	Thomas J. Daley	04-6176	5572
63710 7590 08/27/2009 DEAN P. ALDERUCCI CANTOR FITZGERALD, L.P. 110 EAST 59TH STREET (6TH FLOOR) NEW YORK, NY 10022				
EXAMINER VIZVARY, GERALD C				
ART UNIT 3696		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/767,649

**Applicant(s)**

DALEY ET AL.

**Examiner**

GERALD C. VIZVARY

**Art Unit**

3696

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 18-34 and 69-85 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-34 & 69-85 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. In the amendment filed 5/28/2009, the following has occurred: claims 18-34 have been amended. Claims 69-85 are new. Now, claims 18-34 & 69-85 are presented for examination.

### ***Election/Restrictions***

2. The restriction requirements of claims 18-34 and 69-85 are withdrawn. However the restriction of claims 86-102 and 103-119 is FINAL.

### ***Response to Arguments***

3. In the remarks filed on 6/12/2009, Applicant argues that

(1) Applicants' representative reiterated that the language of claims 69-85 makes it clear that each of the claims recite an apparatus. In fact, each claim begin by reciting an "apparatus" and contain a clear reference to only the claimed "apparatus," so there is no confusion that it might be a method claim or anything other than an apparatus claim.

In response to (1) Examiner notes that the group of claims 69-85 while referencing the claim group 18-34 seems to attempt to tie the method to statutory category by referencing the claims to group 18-34. However, the apparatus claims as stated recite an apparatus in such a way that, while intended to be used for the invention in group I is sufficiently broad in scope that any instructions-memory-processor combination could be interpreted as being the claimed invention of group II.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-34 & 69-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1.

As per claim 18 (Currently Amended) Gary US 6,618,707 B1 discloses a method for ~~matching trading orders~~, comprising:

storing a plurality of bid requests for a trading product, in which each bid request is submitted by ~~associated with at least one of~~ a trader or ~~and~~ a market center, and each bid request comprises a bid quantity ~~for the trading product~~, and a bid price ~~for the trading product~~ ("If the incoming order can trade with the offer side of the book memory 33 at step S29, the order process 33 determines at step S33 whether the order is a public customer order, and if it is not, the bid matching process 34 is initiated at step S35." Gary US 6,618,707 B1 col.13, lines 48-52);

receiving a trading order ~~specifying that~~ comprises an offer request for the trading product, in which offer request comprises ~~the trading order further specifying~~ an offer quantity ~~for the trading product~~ and a target an offer price ~~for the trading product~~; identifying at least one of the plurality of bid requests from the plurality of stored bid requests, in which the at least one bid request comprises ~~having~~ a bid price that is

greater than or equal to the ~~target~~ offer price ("Under one embodiment of the invention, market rules require that there be at least 10 contracts available at the best price at all times. Thus, if the size of the market improving order is less than 10 contracts, the derive or trade process 32 either supplements the market-improving order with an order derived on behalf of the PMM 3 or else trades the market-improving order against the PMM's account." Gary US 6,618,707 B1 col.10, lines 29-36);

selecting one of the identified bid requests to match with the offer request of the trading order, in which the bid quantity of the selected bid request comprises a portion of the offer quantity ("In step S706, the process determines whether there exists a bid and an offer that match, since during T quotations may have changes." Gary US 6,618,707 B1 col. 29 lines 36-38);

matching the selected bid request with the offer request of the trading order ("It is an advantage of the invention to provide an automated system for matching previously entered orders and quotations with incoming orders and quotations on an exchange for securities, which will improve liquidity and assure the fair handling of orders." Gary US 6,618,707 B1 col. 4 lines 55-59) ~~with the at least one identified bid request if the identified bid request is associated with a trader; and~~

calculating a remaining quantity balance for the trading order ("Where the incoming order is greater than the size of the orders and quotations on the book at the best price, the bid matching process 34 and the offer matching process 36 will, using the priority rules discussed in the previous paragraph, first trade the incoming order against the orders and quotations at the best price and then trade the balance of the incoming order

against the orders and quotations on the book at the next worse price.” Gary US 6,618,707 B1 col. 4 lines 55-59); and

storing a second offer request for the trading product, in which the second offer request comprises the offer price and the remaining quantity balance. (“If there is still volume left in the incoming order and all orders and quotations on the book that can match the incoming order have been filled, the remaining volume of the incoming order is placed in the book memory 33, and this order sets a new best price.” Gary US 6,618,707 B1 col. 4 lines 55-59) ~~routing the trading order to a particular market center if the at least one identified bid request is associated with the particular market center.~~

Gary US 6,618,707 B1 fails to explicitly teach a market center.

Waelbroeck teaches “An example helps to illustrate how ACT data can be used to reconstruct a trade: a private individual places an order to sell 500 shares of DELL through an order entry firm such as a discount broker, or through an ECN such as Archipelago (ARCA). This order will be routed to the market center with the best bid at the time.” (Waelbroeck US 2002/0052827 A1 ¶ [0132])

As per claim 19 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim 18.

Gary US 6,618,707 B1 further discloses that ~~matching the offer request of the trading order with the identified bid request forms a matched trading order that comprises a matched quantity and a matched price~~ comprises at least one of:  
the bid price of the selected bid;

the offer price of the trading order; and

an average of the bid price of the selected bid and the offer price of the trading

order. ("If both the current bid and current offer prices will lead to the same maximum number of contracts traded, then step S589 determines whether the spread between the current bid and offer prices is an even number of ticks. If it is, orders are traded at the average of the current bid and current offer prices at step S591." Gary US 6,618,707 B1 col. 26 lines 12-17)

As per claim 20 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim 49 18.

Gary US 6,618,707 B1 further discloses that the act of identifying at least one bid request further comprises:

identifying a first bid request that comprises a first bid price and a first bid the  
matched quantity; comprises the lesser of the bid quantity of the identified bid request  
and identifying a second bid request that comprises a second bid price and a second  
bid the offer quantity specified by the trading order. ("FIG. 1 shows an exchange 1 according to an embodiment of the present invention connected with a number of entities. An order placed on the exchange 1 may be a limit order that specifies an order size, that is, an integral number of contracts, and a bid price or offer price. Gary US 6,618,707 B1 col. 7 lines 35-38)

As per claim 21 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim 49 20, wherein

Gary US 6,618,707 B1 further discloses that the act of selecting one of the identified bid requests further comprises:

determining that the first bid matched price is greater than based upon at least one of the second bid price; and selecting of the first identified bid request and the offer price specified by to match with the trading order. ("It is an advantage of the invention to provide an automated system for matching previously entered orders and quotations with incoming orders and quotations on an exchange for securities, which will improve liquidity and assure the fair handling of orders." Gary US 6,618,707 B1 col. 4 lines 55-59)

As per claim 22 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim 49 20,

Gary US 6,618,707 B1 further discloses that the act of selecting one of the identifying identified bid requests further comprises;

identifying a determining that the first bid request having a first bid price that is submitted by a trader greater than or equal to the target offer price; and identifying a the second bid request is submitted by a market center; and having a second bid price that is less than the first bid price and greater than or equal to the target offer price.



selecting the first bid request to match with the trading order in order to promote liquidity. ("It is an advantage of the invention to provide an automated system for matching previously entered orders and quotations with incoming orders and quotations on an exchange for securities, which will improve liquidity and assure the fair handling of orders." Gary US 6,618,707 B1 col. 4 lines 55-59)

As per claim 23 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim ~~22~~ 18.

Gary US 6,618,707 B1 further discloses that the act of calculating the remaining quantity balance for the trading order further comprises:

the first bid request is associated with a trader and specifies a bid quantity that is less than determining a difference between the offer quantity ~~specified by~~ of the trading order; and ~~matching comprises facilitating a trade involving the offer request of the trading order and the first bid request such that any portion of the offer quantity of the selected bid that remains unfilled after matching comprises a remaining quantity balance for the trading product.~~ ("Where the incoming order is greater than the size of the orders and quotations on the book at the best price, the bid matching process 34 and the offer matching process 36 will, using the priority rules discussed in the previous paragraph, first trade the incoming order against the orders and quotations at the best price and then trade the balance of the incoming order against the orders and quotations on the book at the next worse price." Gary US 6,618,707 B1 col. 4 lines 55-59)

As per claim 24 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim ~~23~~ 18.

Gary US 6,618,707 B1 fails to explicitly teach ~~wherein further comprising: determining that the second selected bid request is associated with a particular submitted by a~~  
market center;

~~calculating a market center quantity for the selected bid request; and~~

~~routing comprises routing the trading order to the particular market center for a market center quantity of the trading order to the market center that is at least a portion of the remaining quantity balance.~~

Waelbroeck US 2002/0052827 A1 teaches "If the order has not been executed or if the order has received a partial fill but has not been completely executed, the system calculates the residual quantity and proceeds at step 660 by routing orders for that residual quantity until the order is completely filled or the list of 10 MPs is exhausted."  
(Waelbroeck US 2002/0052827 A1 ¶ [0084])

As per claim 25 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim 24. Gary US 6,618,707 B1 further discloses that the act of calculating determining the market center quantity further comprises:

~~based at least in part upon applying a quantity multiplier to the bid quantity of the selected second bid request, in which the and a quantity multiplier associated with is~~

based upon a percentage of shares filled by the particular market center. ("The fast market process 37 accumulates orders for a time period determined by the value of the fast market parameter. At the end of this time period, a trade is executed at a price calculated to clear a maximum number of orders at a single price." Gary US 6,618,707 B1 col. 4 lines 55-59)

As per claim 26 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim ~~23~~ 24,

Gary US 6,618,707 B1 further discloses that the act of calculating the remaining quantity balance further ~~comprising~~ comprises:

~~storing an offer request for the trading product, determining the difference between the offer request specifying an offer quantity that comprises the remaining of the trading order and the market center quantity balance and further specifying an offer price that comprises the target offer price.~~ ("Where the incoming order is greater than the size of the orders and quotations on the book at the best price, the bid matching process 34 and the offer matching process 36 will, using the priority rules discussed in the previous paragraph, first trade the incoming order against the orders and quotations at the best price and then trade the balance of the incoming order against the orders and quotations on the book at the next worse price." Gary US 6,618,707 B1 col. 4 lines 55-59)

As per claim 27 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim ~~23~~ 18.

Gary US 6,618,707 B1 fails to explicitly teach setting a flag to indicate that the ~~first bid request~~ selected bid has been matched; and removing the ~~first bid request~~ selected bid from storage to indicate that the ~~first bid request~~ selected bid has been matched.

Waelbroeck US 2002/0052827 A1 teaches "A preferred embodiment subscribes to real-time updates, so temporary ACT status entries should be recognized as well. Source "M" and "N" are ACT reports by Required Char member firms. "O" is SelectNet, "S" is SOES, "A" is ACES, "C" is CAES, "I" is ITS, "F" is Optimark, "U" is UTP. QSR Clearing flag: "Q" will not clear Required Char through ACT, "Z" will clear through ACT, "N" ticker only, "L" is locked in will clear through ACT, " " (space) will match and clear through ACT. As-of Boolean, "Yes" when the trade was Required Boolean executed after hours the previous day and is therefore being reported late and should not be printed on the tape." (Waelbroeck US 2002/0052827 A1 ¶ [0157])

As per claim 28 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim ~~22~~ 18.

Gary US 6,618,707 B1 fails to explicitly teach determining that the first selected bid request is submitted by ~~associated with a particular market center and specifies a bid quantity that is less than the offer quantity specified by the trading order;~~ and

determining that the market center has not received a trading order for the trading product; and

~~routing comprises routing the trading order to the particular market center for a market center quantity such that the~~ portion of offer quantity of the trading order to is reduced ~~by the market center quantity to form a remaining quantity balance.~~

Waelbroeck US 2002/0052827 A1 teaches "The user would submit information regarding the order, and the CTI system would then verify the existence of the claimed order, so that all market participants subsequently notified of the order can rely on the truthfulness of the dissemination." (Waelbroeck US 2002/0052827 A1 ¶ [0031]) and "A further embodiment of the subject invention is directed to order routing and order management based on CTI information." (Waelbroeck US 2002/0052827 A1 ¶ [0075])

As per claim 29 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim ~~28~~ 18.

"Gary US 6,618,707 B1 fails to explicitly teach determining that the second selected bid request is submitted by a market center;

~~associated with a trader; and~~

determining that the market center already has received a trading order for the trading product; and

~~matching comprises facilitating a trade involving routing the portion of the offer request of the trading order and the second bid request for a quantity~~ of the trading order to a different market center. that is at least a portion of the remaining quantity balance.

Waelbroeck US 2002/0052827 A1 teaches "The contract can also include a right to have a third-party consulting firm inspect and verify compliance with said contractual terms. In a further alternate embodiment, a clearing firm hosts the system that executes queries against the trading data. This embodiment of the service bureau issues certificates on the voluntary compliance of their correspondents to stated trading limitations." (Waelbroeck US 2002/0052827 A1 ¶ [0065])

As per claim 30 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim 28 18.

Gary US 6,618,707 B1 further discloses determining that the selected bid request is submitted by a market center;

determining ~~that~~ the market center has not exceeded a maximum number of trading orders; and

~~quantity based at least in part upon the bid~~ routing the portion of the offer quantity of the trading order to first bid request and a quantity multiplier associated with the particular market center. ("At step S344 the volume of the incoming order is compared with the maximum volume for the price differential given in the away market matching table. If the volume of the order is less than the volume of the order shown in the away market matching table, then step S348 automatically trades the order against the PMM 3 at the away market price. If the volume of the incoming order is greater than the volume given by the away market matching table, then step S346 alerts the PMM 3 of the price differential between the exchange 1 and the away market 17. The PMM 3 can then

decide whether to trade the incoming order at the away market price." Gary US 6,618,707 B1 col. 24 lines 56-66)

As per claim 31 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim ~~29~~ 18.

Gary US 6,618,707 B1 further discloses ~~storing an offer~~ determining that the selected bid request is submitted by a market center; for the trading product, determining that the market center has exceeded a maximum number of trading orders;  
routing the portion of the offer request specifying an offer quantity of the trading order to a different market center, that comprises the remaining quantity balance and further specifying an offer price that comprises the target offer price. ("According to the embodiment illustrated in FIG. 1, EAM 11 is connected with the exchange 1 via such a third party communication system 12. The third party communication system may be, for example, an independent order routing and back office service provider." Gary US 6,618,707 B1 col. 24 lines 56-66)

As per claim 32 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim ~~28~~ 18.

Gary US 6,618,707 B1 fails to explicitly teach routing the trading order to a market center in accordance to a disclosure policy, in which the disclosure policy comprises at least one of: an IOC order policy; a PROP policy; and a NOIOC policy.

Waelbroeck US 2002/0052827 A1 teaches "The CTI manager of this embodiment will monitor the trading activity of all auction participants and note any suspected peg gaming or front running in the CTI user database, either as raw data or as a rating of trading behavior. An alternate embodiment maintains similar data and/or ratings in the CTI user database 50 regarding the accuracy of the market participants' non-certified disclosures on external systems such as AutEx+.RTM.. A further embodiment maintains similar data and/or ratings in the CTI user database 50 regarding the market participants' adherence to self-imposed trading limits set during negotiations. This list is not intended to be exhaustive; other embodiments will be apparent to those skilled in the art." (Waelbroeck US 2002/0052827 A1 ¶ [0029])

As per claim 33 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim 18.

Gary US 6,618,707 B1 fails to explicitly teach that the bid price of each identified bid request ~~associated with a market center comprises a bid price that~~ is adjusted according to at least one of;

cost information of the market center; and

rebate information ~~associated with~~ of the market center.

Waelbroeck US 2002/0052827 A1 teaches "In a further alternate embodiment, the adjustment is done by the system without sending information back to the recipient, based on adjustment rules set by the user beforehand. For example, if a user enters a query to find the buyers of more than 10,000 shares net during the past hour, but



wishes to notify no more than 4 counterparties, this query request may be amended by a request to extend the time period to more than one hour if the number of contraparties found in the past hour was less than 4 or, in the opposite case, where more than four large buyers were found in the time period, by a request to reduce the time span of the query."." (Waelbroeck US 2002/0052827 A1 ¶ [0038])

As per claim 34 (Currently Amended) Gary US 6,618,707 B1 in view of Waelbroeck US 2002/0052827 A1 teaches a method of claim 18.

Gary US 6,618,707 B1 further discloses that the bid price of each identified bid request ~~associated with a market center comprises a bid price that~~ is adjusted according to; a policy information ~~associated with a~~ of the market center; and a best price information ~~for~~ of the trading product. ("According to one embodiment of the invention applied to the trading of options, the exchange 1 collects data from the reporting entity 19 and uses this information in its automatic trade execution process, described below. Data from the reporting entity 19 is also used to monitor prices of options on other markets 17, as well as that of stocks underlying the options to, among other functions, assess whether a "fast market" condition exists, that is, whether the other exchanges have indicated that due to the volume and/or price volatility of a security, certain of their normal trade execution rules will not apply." Gary US 6,618,707 B1 col. 7 lines 65-col. 8, line 9)

As per claim 69 (New) Gary US 6,618,707 B1 discloses an apparatus comprising:

a processor; and

a memory, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method of claim 18. ("The exchange 1 may be implemented on a general-purpose computer under the control of a software program. According to one embodiment of the invention, the exchange 1 is implemented on an Open VMS system running the OM Click Exchange.TM. software manufactured by OM Technology AB. Alternatively, the exchange 1 can be implemented on a network of general-purpose computers each under the control of a separate software program or on a system of interconnected parallel processors. Although complex, it is believed that suitable software for performing the various functions described herein can be designed and constructed by computer programmers of ordinary skill." Gary US 6,618,707 B1 col. 8 lines 44-54) and ("and processor means for allocating portions of the incoming order or quotation among the plurality of previously received orders and quotations in the book memory means based on the allocating parameters in the system memory means, wherein the allocating parameters include parameters for allocating a first portion of the incoming order or quotation against previously received customer orders and allocating a remaining portion of the incoming order or quotation preferentially against professional orders and quotations with larger size." Claim 1)

The limitations of Claims 70-85 parallel the limitations of claim 69 and are therefore rejected on similar rationale.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald C. Vizvary whose telephone number is 571-270-3268. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ella Colbert can be reached on 571-272-6741. The fax phone number for the organization where this application or proceeding is assigned is 571-270-4268.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/THOMAS A DIXON/  
Supervisory Patent Examiner, Art Unit 3696

Gerald Vizvary  
Patent Examiner, A.U. 3696  
August 24, 2009